

SENATE No. 2017**The Commonwealth of Massachusetts**

PRESENTED BY:

Stephen M. Brewer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to standards for protective headgear for operators or passengers on motorcycles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Anne M. Gobi	5th Worcester
Michael R. Knapik	Second Hampden and Hampshire
Joyce A. Spiliotis	12th Essex
Angelo J. Puppolo, Jr.	12th Hampden
Todd M. Smola	1st Hampden
John D. Keenan	7th Essex
Scott P. Brown	Norfolk, Bristol and Middlesex
Christine E. Canavan	10th Plymouth
Jeffrey Davis Perry	5th Barnstable
Marc R. Pacheco	First Plymouth and Bristol
Bruce E. Tarr	First Essex and Middlesex
Robert L. Hedlund	Plymouth and Norfolk
Demetrius J. Atsalis	Second Barnstable
Stephen Kulik	1st Franklin
Richard J. Ross	9th Norfolk
Donald F. Humason, Jr.	4th Hampden
Karyn E. Polito	11th Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO STANDARDS FOR PROTECTIVE HEADGEAR FOR OPERATORS OR PASSENGERS ON MOTORCYCLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 7 of chapter 90 of the general laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the following sentence: “Every person operating a motorcycle or riding as a passenger on a motorcycle or in a sidecar attached to a motorcycle shall wear protective head gear conforming with such minimum standards of construction and performance as the registrar may prescribe, and no person operating a motorcycle shall permit any other person to ride as a passenger on such motorcycle or in a sidecar attached to such motorcycle unless such passenger is wearing such protective head gear, except that no protective head gear shall be required if the motorcyclist is participating in a properly permitted public parade and is 18 years of age or older. If a motorcycle is not equipped with a windshield or screen, the operator of such motorcycle shall wear eye glasses, goggles or a protective face shield when operating such vehicle.”

And inserting at the end of the first paragraph of said section 7, the following new sentences: Except as provided in this section, every person operating a motorcycle or riding as a passenger on a motorcycle or in a sidecar attached to a motorcycle shall wear protective head

gear, as provided in subsection (a) and no person operating a motorcycle shall permit any other person to ride as a passenger on such motorcycle or in a sidecar attached to such motorcycle unless such passenger is wearing such protective head gear, except that no protective head gear shall be required if the motorcyclist is participating in a properly permitted public parade and is 18 years of age or older. If a motorcycle is not equipped with a windshield or screen, the operator of such motorcycle shall wear eye glasses, goggles or a protective face shield when operating such vehicle.

(a) To provide for the safety and welfare of every person operating a motorcycle or riding as a passenger or in a sidecar attached to the motorcycle, the Registrar shall prescribe minimum safety standards and construction for protective headgear used by motorcyclists in the commonwealth.

(b) The Registrar may adopt any part or all of the American National Standards Institute's standards and construction for protective headgear for vehicular users.

(c) On request of a manufacturer of protective headgear, the department shall make the safety standards prescribed by the department available to the manufacturer.

(d) Penalties relative to not wearing headgear, exceptions. A person commits an offense if the person: (1) operates, or rides as a passenger, on a motorcycle on a public street or highway; and (2) is not wearing protective headgear that meets safety standards adopted by the Registrar.

(e) A person commits an offense if the person carries on a motorcycle or in a sidecar attached to a motorcycle on a public street or highway a passenger who is not wearing protective headgear, that meets safety standards and construction adopted by the Registrar.

(f) It is an exception to the application of Subsection (a) or (b) that if, at the time the offense was committed, the person required to wear protective headgear was at least 21 years

old,, had successfully completed, at the expense of the applicant, a motorcycle operator training and safety course as prescribed by the Registrar or has been designated by the Division of Insurance as an experienced rider, and was covered by a health insurance plan providing the person with at least \$50,000 in medical benefits for injuries incurred as a result of an accident while operating a motorcycle or riding as a passenger on a motorcycle or in a sidecar attached to a motorcycle .

(g) The Registry of Motor Vehicles shall promulgate regulations required to implement the provisions of subsection (f).

(h) There shall be an assessment of not less than \$125 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motorcycle without a helmet or permitting another person to ride as a passenger on said motorcycle or in a sidecar attached to a motorcycle unless exempted pursuant to the provisions of subsection (f); provided, however, that moneys collected pursuant to said assessment shall be deposited by the court with the treasurer into the Head Injury Treatment Services Trust Fund established by section 59 of chapter 10. In the discretion of the court, an assessment pursuant to this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

60 (i) In this section, "health insurance plan" means an individual, group, blanket, or
61 franchise insurance policy, insurance agreement, evidence of coverage, group hospital services
62 contract, health maintenance organization membership, or employee benefit plan that provides
63 benefits for health care services or for medical or surgical expenses incurred as a result of a
64 motor cycle accident.

65 (j) The provisions of this section shall be enforced by law enforcement agencies only
66 when an operator of a motorcycle has been stopped for a violation of the motor vehicle laws or
67 some other offense.